

COURT FACILITIES DISPUTE RESOLUTION COMMITTEE

SEPTEMBER 22, 2008

MINUTES

COMMITTEE MEMBERS PRESENT:

Ms. Karen Finn, Representative of the Department of Finance
Justice Ron Robie, Representative of the Judicial Council
Supervisor John Tavaglione, Representative of the California State Association of Counties

PRESENTERS:

Clifford Ham, Principal Architect, Office of Court Construction and Management, Administrative
Office of the Courts, Judicial Council
Afshar Jalalian, S.E., Principal, Rutherford and Chekene
Stephen Dunivent, Deputy County Executive Officer, Orange County
Dave Kilpatrick, MSCE, SE, Associate Principal, DMJM H&N
Clark Shen, Manager, Subdivision and Grading, Orange County

OTHERS PRESENT:

Elizabeth Howard, California State Association of Counties
Greg Rogers, Assistant Program Budget Manager, Department of Finance
Jennifer Osborn, Principal Program Budget Analyst, Department of Finance
Nathan Brady, Principal Program Budget Analyst, Department of Finance
Madelynn McClain, Budget Analyst, Department of Finance
Deborah Cregger, Staff Counsel III, Department of Finance
Lynette Canask, County of Kern
Geraldine Gour, County of Riverside
MaryAnn Bennett, County of Sacramento
Janus Norman, Administrative Office of the Courts
Gisele Corrie, Administrative Office of the Courts
Melvin Kennedy, Administrative Office of the Courts

CALL TO ORDER AND ROLL CALL:

Mr. Nathan Brady, Department of Finance, called the meeting to order at 9:00 a.m. and called the roll. A quorum was established.

ELECTION OF A CHAIR FOR THE COMMITTEE:

Mr. Brady stated that the first item of business was the discussion of the need for a Chair of the Court Facilities Dispute Resolution Committee. Mr. Brady noted that staff felt that it would be advantageous for the members to elect a chair to facilitate the expeditious and orderly business before the committee. Justice Robie stated that motions and seconds shouldn't be needed with a three-member committee. However, Ms. Cregger noted that per Roberts Rule of Order, motions and seconds are required.

A motion was made by Justice Robie and Second by Supervisor Tavaglione to elect Karen Finn, Department of Finance, as the Chair for the Court Facilities Dispute Resolution Committee.

The Election of the Chair was approved by a 3-0 vote.

INFORMATIONAL ITEM:

The first order of business was an informational item to ensure that all members of the Committee received their copy of the Bagley-Keene Open Meeting Act. Mr. Brady confirmed that pursuant to Government Code Section 11121.9, each member of the Committee had received a copy of the statutes that comprise the Bagley-Keene Open Meeting Act as well as a guide to interpreting those standards published by the Attorney General's Office.

Ms. Finn then stated that although we do not have an attorney assigned to the Committee, our staff counsel, Deborah Cregger, is on hand to answer any questions regarding the Bagley-Keene Open Meeting Act.

CONSIDERATION OF THE DISPUTE RESOLUTION FORM AND PROCESS OF INITIATING AND RESPONDING TO A DISPUTE:

Mr. Brady noted that the form and process have been discussed with staff to ensure all parties involved follow the same rules and requirements for initiating and responding to disputes. There is one proposed edit to the process. On the first page, the second bulled underneath the *Instructions for Meetings and Recommendations of the CFDRC* is proposed to read, "For County Facility Payment issues, the Committee will mail out the recommendation to all interested parties in accordance with the timeframes specified in Government Code Section 70366." Ms. Finn noted that the draft form stated that the Committee must mail out a recommendation for County Facility Payment issues within 90 days from receipt of initial dispute. Mr. Brady stated that the proposed edit would remove the reference to the 90 days and instead refer to the Government Code Section. Ms. Finn recommended that the form have both the 90 day statement and the Government Code Section. Supervisor Tavaglione stated that the counties concern was that there would be the impression that the committee would take the full 90 days to make a recommendation. A compromise was made to amend the process to state that, "Pursuant to the provisions of Government Code Section 70366, the Committee will mail out the recommendation regarding County Facility Payment issues to all interested parties within 90 days from the initial dispute." Supervisor Tavaglione requested that staff have the ability to make non-substantive changes to the form as necessary in the future, without having to bring the changes before the committee.

A motion was made by Supervisor Tavaglione and Second by Justice Robie to approve the Dispute Resolution Form, adopt the amended process for initiating and responding to a dispute, and allow staff the ability to make non-substantive changes to the form and process.

The Dispute Resolution form and process were approved by a 3-0 vote.

ACTION ITEM:

Mr. Brady noted that our next item was the Orange County (County) initiated dispute regarding the seismic safety rating of five facilities located in Orange County. These facilities are the (1) Central Justice Center, (2) Lamoreaux Justice Center, (3) North Justice Center, (4) West Justice Center, and (5) Harbor Justice Center. Representatives from Orange County and the Administrative Office of the Courts are here to discuss this issue with the Committee.

Ms. Finn invited the presenters for both Orange County and the Administrative Office of the Courts to the tables, requested that they introduce themselves, and limit their comments to fifteen minutes per facility.

Presenters:

Clifford Ham, Principal Architect, Administrative Office of the Courts
Afshar Jalalian, S.E., Principal, Rutherford and Chekene
Stephen Dunivent, Deputy County Executive Officer, Orange County
Dave Kilpatrick, MSCE, SE, Associate Principal, DMJM H&N
Clark Shen, Manager, Subdivision and Grading, Orange County

Central Justice Center

This facility received a Seismic Rating Level V by the Administrative Office of the Courts (AOC). Per the County, this facility was upgraded in 1997 for seismic deficiencies. Per existing law, Government Code Section 70327, facilities that were seismically upgraded using post-1988

uniform building standards exempts them from being evaluated; therefore this facility should have transferred to the state as is. The AOC stated that while a seismic upgrade occurred, the upgrades did not change the seismic safety rating from a level V to a level IV as the two issues remained – the buildings coming together in an uneven fashion and the overstressed columns.

During discussion, Committee members encouraged both parties sit down for face-to-face meetings to attempt to work out these issues prior to coming to the Committee.

A motion was made by Supervisor Tavaglione and Second by Ms. Finn to recommend the acceptance of the Orange County appeal of the Central Justice Center to the Director of the Department of Finance.

The appeal for the Orange County, Central Justice Center was recommended for approval by a 2-1 vote.

**AYES: Karen Finn:
Supervisor Tavaglione**

NOES: Justice Robie

ABSTAIN: None

Lamoreaux Justice Center

This facility received a Seismic Rating Level V by the AOC. This facility was constructed in 1992. Originally, the building was designed to 1985 uniform building standards, but amended to include the post-1988 uniform building standards. The AOC did not include the post-1988 amendments into their analysis. Prior communication on this item noted that the parties would discuss this issue in more detail at a subsequent meeting; however, this meeting did not take place. The Committee discussed holding over this issue until our meeting scheduled on October 28, 2008, to allow both parties time to meet and discuss this item. If the parties are unable to come to an agreement on this facility, the Committee can take up the item at our next meeting. Ms. Deborah Cregger, Staff Counsel III, Department of Finance, advised the Committee to adjourn the recommendation of this facility to the conclusion of the meeting scheduled for October 28, 2008. In addition, within 24 hours of the conclusion of this meeting, staff will post the adjournment of this item outside the door of the room. Justice Robie expressed concerns with holding the item over to the October meeting.

A motion was made by Supervisor Tavaglione and Second by Ms. Finn to adjourn this item until the conclusion of our next meeting scheduled for October 28, 2008.

The motion to adjourn the recommendation for the Lamoreaux Justice Center until the conclusion of our next meeting scheduled for October 28, 2008, was approved by a 2-0-1 vote.

**AYES: Karen Finn:
Supervisor Tavaglione**

NOES: None

ABSTAIN: Justice Robie

Harbor Justice Center

This facility received a Seismic Rating Level V by the AOC. The County stated that this was a design issue, not a seismic risk and that an earthquake would cause damage to the facility, just not to a seismic risk level V rating. The AOC noted that DMJM's engineer concurred with the

peer review of the analysis and with the AOC's rating for this building in their September 18, 2008, letter.

A motion was made by Supervisor Tavaglione and Second by Karen Finn to recommend the denial of the Orange County appeal for the Harbor Justice Center to the Director of the Department of Finance.

The appeal for the Harbor Justice Center was recommended for denial by a 3-0 vote.

AYES: Karen Finn:
Supervisor Tavaglione
Justice Robie

NOES: None

ABSTAIN: None

West Justice Center

This facility received a Seismic Rating Level V by the AOC. The County stated that the issues for this facility included the construction of the penthouse and plaster ceilings. The County noted that the AOC did not actually inspect the plaster ceiling nor provide the detailed calculations of the identified upgrades for the penthouse. Additionally, the AOC rated these items as "pending". The AOC noted that the penthouse sat over the lobby and in a seismic event, the structural design could allow for the collapse on the lobby injuring the occupants. Additionally, the AOC's experience with other facilities containing plaster ceilings allowed them to make a determination based on that knowledge.

A motion was made by Justice Robie and Second by Supervisor Tavaglione to recommend the denial of the Orange County appeal for the West Justice Center to the Director of the Department of Finance.

The appeal for the West Justice Center was recommended for denial by a 3-0 vote.

AYES: Karen Finn:
Supervisor Tavaglione
Justice Robie

NOES: None

ABSTAIN: None

North Justice Center

This facility received a Seismic Rating Level V by the AOC. This facility has three separate buildings, 30-C2, 30-C1-E, and 30-C1-A. 30-C1-E and 30-C1-A are connected by a 2" seismic joint. 30-C2 and 30-C1-A are connected by a breezeway. These are interconnected buildings. The AOC noted that court operations span across all three buildings. The County stated that the steel columns at 5/C, 8/2, and 12/E in the 30-C1-A building (built in 1981), were not deficient and that they have the capacity to withstand most stresses. There are two columns which are exposed, and one column which is built into the wall. The AOC noted that there were three walls supported by three columns and one of the columns is embedded in the wall. The columns extend down to the basement. Justice Robie noted that he was concerned about what would come down into the basement if the columns failed. The County stated that there were two issues for 30-C1-E – (1) pre-cast walls and connections, and (2) roof diaphragm/connections. The County said that summary results from the AOC did not adequately state which walls and connections were in dispute. The County stated that there was one issue for 30-C2 (built in 1972) – (1) four concrete columns. Supervisor Tavaglione wanted

to confirm that the 30-C1-E building was built in 1968 and had not been retrofitted since. Additionally, the likelihood of it failing in a major earthquake would be pretty high. There was discussion between the Committee members and the presenters regarding the ability to transfer buildings as separate facilities. The AOC noted that the intent is that this is one court facility and would transfer as one facility.

A motion was made by Justice Robie and Second by Supervisor Tavaglione to recommend the denial of the Orange County appeal for the North Justice Center to the Director of the Department of Finance.

The appeal for the North Justice Center was recommended for denial by a 3-0 vote.

AYES: Karen Finn:
Supervisor Tavaglione
Justice Robie

NOES: None

ABSTAIN: None

Ms. Finn restated all recommendations made by the committee to confirm that all members agreed with the actions taken. Additionally, Ms. Finn restated the decision for the Lamoreaux Justice Center to adjourn this item until the conclusion of the meeting on October 28, 2008.

There was discussion between Committee members on the process for sending a recommendation to the Director of the Department of Finance. Staff will prepare the letter to the Director of the Department of Finance to state the recommendations of the Committee for the Central Justice Center, the North Justice Center, the West Justice Center, and the Harbor Justice Center. Additionally, staff will inform the Director of the Department of Finance that the Lamoreaux Justice Center was held over until the conclusion of our meeting on October 28, 2008.

There were no comments or questions from the public before adjournment.

OTHER BUSINESS:

Mr. Brady reported that there was no other business.

NEXT MEETING:

Mr. Brady noted that the next meeting is set for Tuesday, September 30, 2008, at 9:00 a.m. at the State Capitol, in Room 112.

Ms. Finn concluded the meeting at 11:50 a.m. and adjourned the Lamoreaux Justice Center item until the conclusion of the October 28, 2008, meeting.